

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

THE RELIGIOUS SISTERS OF MERCY,
et al.,

Plaintiffs,

v.

ALEX M. AZAR, Secretary of the United
States Department of Health and Human
Service, *et al.*,

Defendants.

No. 3:16-cv-386

THE CATHOLIC BENEFITS
ASSOCIATION; DIOCESE OF FARGO;
CATHOLIC CHARITIES NORTH
DAKOTA; and CATHOLIC MEDICAL
ASSOCIATION,

Plaintiffs,

v.

ALEX M AZAR, Secretary of the United
States Department of Health and Human
Service, *et al.*,

Defendants.

No. 3:16-cv-432

Declaration of [REDACTED]

1. My name is Dr. [REDACTED] I am over 21 and capable of making this declaration. I have not been convicted of a felony or crime involving dishonesty. The facts herein are within my personal knowledge. If I were called upon to testify to these facts, I could and would competently do so.

2. I serve as the [REDACTED] and one of three [REDACTED] of the [REDACTED]
[REDACTED] I earned my M.D. from [REDACTED] University Medical Center in [REDACTED] and
my Ph.D. in chemistry from University of [REDACTED] in [REDACTED] I completed residencies in

Internal Medicine and Pediatrics at [REDACTED] University Medical Center, and I am board certified both in internal medicine and pediatrics.

3. We founded [REDACTED] as a § 501(c)(3) nonprofit corporation to serve patients as a [REDACTED]

[REDACTED] Our Catholic values provide both the impetus for our service and the guide for how we serve patients.

4. We see patients at its [REDACTED] and [REDACTED] locations. In addition to our volunteers, we have nineteen employees including four medical doctors, an osteopathic doctor, a psychiatric nurse practitioner, three registered nurses, and others.

5. In accordance with our Catholic values, [REDACTED] provides a health plan for our full-time employees. Catholic social teaching holds that access to health care, including health insurance, is a basic and universal human right and a demand of the common good. (*Catechism of the Catholic Church*, ¶ 2288). This, too, honors the dignity of every person.

6. Because of these Catholic beliefs and values, [REDACTED] health plan excludes abortion, cross-sex hormones and surgeries intended to provide patients the appearance of the opposite sex, physician-assisted suicide, and other care inconsistent with Catholic values.

7. The [REDACTED] serves low-income individuals. This, too, is part of our Catholic witness. In the [REDACTED] information sheet [REDACTED] regarding the Clinic, we wrote:

By caring for the sick and placing the sick at the head of the line and in the position of honor, [REDACTED] is directly aligned with the purpose and mission of the Catholic Church. We offer medical services to the poor and the sick in our communities. Additionally, our coordination with [REDACTED] demonstrates our alignment with Blessed Fra' Gerard, a Benedictine brother in the 11th century, who saw the misery of poor and sick pilgrims of all faiths in Jerusalem. We too

are extending Benedictine hospitality to the streets; we also organize men and women to minister to the poor and sick in [REDACTED]

8. [REDACTED] provides medical services across the “entire life span,” and is “open to all comers.” Our nondiscrimination policy is grounded upon reason and the Catholic conviction that every single human being is made in the image and likeness of God and thereby has intrinsic and inalienable dignity. It is further grounded in the Catholic belief that human beings are to love one another in the manner of Jesus Christ, and according to the model of the Good Samaritan who cares for the person in need strewn upon his path (*Lk* 10:29-37).

9. Our Information Sheet also explains:

Since September 2020, we have 13,000 patient visits with at least 16% uninsured and the majority recipients of Medicaid and Medicare or county health insurance programs. We are adding 100 new patients each month.

We have served approximately 300 homeless by [REDACTED] through the [REDACTED] suffering from mental health disorders, substance abuse, skin infections, chronic conditions med refills (diabetes, HTN, holdover meds). Dr. [REDACTED] IS the homeless ministry in our community.

Sixty percent of our revenue is from Medicare and Medicaid funding.

10. Our physicians, each of whom is Catholic, have also made great personal sacrifice so that the Clinic can serve those in need without regard to their financial status and without regard to whether they have insurance. Our updated 2022 Information Sheet explains:

Each of our providers has personally sown time and resources into this ministry. Dr. [REDACTED] gifted \$30,000, Dr. [REDACTED] gifted \$270,000 . . . , the [REDACTED] gifted \$50,000, [and] Dr. [REDACTED] gifted \$50,000. We provide free services to the uninsured, and we are credentialed with all insurers in our area, including Medicaid and Medicare.

All of our physicians have worked without receiving a salary of any kind for the first year, and only in the past year have we been able to offer them a meager stipend. Our nursing staff, medical assistants, and billing and receptionists are all paid at market wages or volunteering their expertise for free. As we have received some insurance payments from services provided in 2021, we began to offer our providers a small monthly stipend. Our physicians have volunteered a market equivalent of over \$1.5 million . . . ; that’s approximately 13,000 hours of physician time. As a whole we are fully invested - our time, our money, and our hearts – into this ministry.

11. Because we see patients of all ages, our medical services are necessarily broad. They include family medicine, pediatrics, internal medicine, and women's health. We provide a wide range of medical services from pre- and post-natal care to accompanying the dying. Our patients include those going through puberty, those who are sexually active (both within and outside marriage); those seeking to become pregnant; those seeking to avoid pregnancy; those with unwanted pregnancies; those with gender dysphoria; those with mental illness; those with fear of dying; and more. There are a growing number of people, including our patients, who seek medical intervention because they do not identify with their biological sex.

12. Because medical issues are often intertwined with moral issues, we routinely turn to our Catholic values for guidance. All of our medical providers and employees agree to serve patients consistently with the *Ethical and Religious Directives for Catholic Health Care* promulgated by the United States Conference of Catholic Bishops including those directives that prohibit abortion, sterilization, and euthanasia. We follow the teaching of the Archbishop of

Most Rev. [REDACTED] entitled [REDACTED]

Indeed, [REDACTED] blessed and commended our Clinic and our work. [REDACTED]

13. We seek to reflect the healing ministry of Christ because we are Catholic. For this reason, we also provide additional services and decline others. We, for example, provide instruction on family planning consistent with Catholic values including the [REDACTED] Model Fertility Care System and NaPro Technology. We do not prescribe abortion pills or perform abortion. We provide the abortion pill reversal for women who changed their minds after taking the abortion pill. We do not assist with gender transition or facilitate assisted suicide.

14. Catholics oppose transgender medicine because it contradicts God's creative sovereignty and confounds human beings' understanding of their own dignity as well as their

development as body-soul unities. Catholics believe that as sovereign Creator, God does not place any human being in the “wrong body.” We also believe that God makes every human being; we do not make ourselves. Catholicism further teaches that God creates every human being as an inseparable unity of body and soul. Consequently, a human being’s failure to accept his or her bodily sex would impede self-understanding and development at the biological, physiological, emotional, mental and spiritual levels, all of which are interrelated.

15. Being required to pay for, perform, cover, or facilitate access to abortion or transgender medicine violates the overlapping professional and Catholic convictions of the [REDACTED] [REDACTED] about the proper medical care patients are owed. Professional and Catholic medical standards provide that healthcare should at the very least do no harm. It should aim to prevent or cure or at least alleviate a medical condition. It should not destroy or make dysfunctional a healthy bodily part or system. But transgender services do not meet these standards. They are *defined* by their destroying or making dysfunctional human body parts or systems. There does not exist sound evidence that they prevent or cure or alleviate the underlying medical conditions. It is also increasingly evident that it is virtually impossible to obtain genuine informed consent for transgender procedures from pediatric patients, who cannot be expected knowledgeably to agree to permanent future sterility, impotence, continuous medical treatment, and loss of sexual pleasure. There is growing evidence that transgender procedures lead to additional mental, psychological and physical harms. Consequently, transgender medicine cannot be said to meet either professional standards of medical care, or the additional standard observed by Catholic health care providers to embody the healing ministry of Jesus Christ, at the physical, mental and spiritual levels. *Ethical and Religious Directives for Catholic Health Care*, p. 6.

16. [REDACTED] is a member of the Catholic Benefits Association and has been, without interruption, since April 2020.

17. Any governmental regulation or policy requiring [REDACTED] to cover abortion or gender transition services and cross-sex hormones in its employee health plan or to perform such services or prescribe such drugs when it was competent to do so violates our deeply-held Catholic values and beliefs.

18. Our care for low income and elderly patients would be devastated if we no longer received Medicare and Medicaid funding. Without an exemption from a requirement to perform, pay for, cover, or facilitate access to abortion or transgender medicine, [REDACTED] [REDACTED] would be undercut in severe, ongoing, immediate, and irreparable manners. Catholics hold and teach that God is the sovereign Creator. This means that the human being is not self-made and that God cannot mistakenly put a person in “the wrong body.” Rather, the Book of Genesis states that after making humankind “male and female,” “in his image,” God “looked at everything he had made, and found it very good” (*Gen* 1: 27, 31). Were [REDACTED] [REDACTED] to perform, pay for, cover, or facilitate access to transgender medicine, it would be powerfully communicating by word and deed to its employees, clients, and the public at large, that it no longer believed in God’s creative sovereignty, a central tenet of its faith.

Executed on the 2d day of May 2023, at [REDACTED] [REDACTED]

[REDACTED]